

OFFICE OF THE CHIEF OF POLICE

SPECIAL ORDER NO. 33

October 3, 2001

SUBJECT: ADMONITION OF MIRANDA RIGHTS - REVISED

PURPOSE: The California Department of Justice (DOJ) and the Commission on Peace Officer Standards and Training (POST) have recommended that all California police agencies utilize a more simplified admonition and waiver in compliance with *Miranda v. Arizona* (1966) 384 US 436 (*Miranda*).

This Order revises the manner in which a *Miranda* Admonition will be given. This Order also revises the Officer's Notebook, Form 15.03.0, and other Department forms containing the *Miranda* Admonition.

PROCEDURE: When a person in custody is to be interrogated regarding his/her possible participation in the commission of a criminal offense, or in any other instance where a *Miranda* Admonition is required (e.g., employee administrative investigation), the *Miranda* Admonition shall be read verbatim to him/her. The *Miranda* Admonition and response shall be included in the appropriate reports (Manual Section 4/202.10).

A. English. If the person speaks and understands English, the following *Miranda* Admonition shall be used:

1. You have the right to remain silent.
Do you understand?
2. Anything you say may be used against you in court.
Do you understand?
3. You have the right to the presence of an attorney before and during any questioning.
Do you understand?
4. If you cannot afford an attorney, one will be appointed for you, free of charge, before any questioning, if you want.
Do you understand?

If a waiver is desired, the following question shall be asked:

Do you want to talk about what happened?

B. Spanish. If the person speaks and understands Spanish only, the following Miranda Admonition shall be read verbatim by a Department employee who is fluent in Spanish:

1. Usted tiene el derecho de permanecer callado.
Entiende?
2. Cualquier cosa que usted diga puede ser usada en su contra en una corte de justicia.
Entiende?
3. Usted tiene el derecho de la presencia de un abogado antes y durante cualquier interrogatorio.
Entiende?
4. Si usted no tiene dinero para pagar un abogado, se nombrará uno para usted, sin costo alguno, antes de cualquier interrogatorio, si así lo quiere usted.
Entiende?

If a waiver is desired, the following question shall be asked:

Quiere usted hablar sobre lo que ocurrió?

C. Other languages. When it is necessary to advise a person of his/her Miranda rights in a language other than English or Spanish, the existing procedure shall be followed to determine that person's language (1/240.25). If a waiver is sought and obtained, the employee must then be prepared to interpret any subsequent questions/responses. Consequently, it is preferred that a sworn employee interpret the Miranda Admonition, as they are also trained in interrogation techniques.

D. Juveniles. All persons under 18 years of age, described in Sections 601 and 602, Welfare and Institutions Code, shall be advised of their rights upon being taken into custody, regardless of whether they are to be interrogated. Responses as to whether the juvenile understands each of his/her rights shall be documented. However, a waiver shall not be sought unless the juvenile is to be interrogated.

FORMS REVISION: This Order supercedes all Department forms containing the Miranda Admonition. The Miranda Admonition shall be read according to this Order. All Department forms that contain the Miranda Admonition and waiver will be revised at

their next printing to include the updated verbiage. These forms include:

- * Employee Rights Card, Form 1.81.4;
- * Arrest Report, Form 5.02.0;
- * Driving Under the Influence Arrest Report, Form 5.02.5;
- * Juvenile Arrest (Continuation), Form 5.02.6;
- * Release From Custody Report (Continuation), Form 5.02.8;
- * Mass Arrest Report, Form 5.11.0; and,
- * Officer's Notebook, Form 15.03.

Note: The current Officer's Notebook, Form 15.03, was published with two express waiver questions. The question "Do you want to talk about what happened" shall be the **only** question asked if a waiver is desired.

AMENDMENTS: This Order amends Sections 4/202.10, 5/1.81.4, 5/5.02, 5/5.02.5, 5/5.02.6, 5/5.02.8, 5/5.11, and 5/15.03 of the Department Manual.

AUDIT RESPONSIBILITY: The commanding officer of each operations bureau shall monitor compliance with this directive in accordance with Department Manual Section 0/080.30.

BERNARD C. PARKS
Chief of Police

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